

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HUSSAIN D. VAHIDALLAH,

CASE NO. 08cv843-L (JMA)

Plaintiff.

CENTER FOR MEDICARE AND MEDICAID SERVICE - CMS.

**ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED *IN FORMA
PAUPERIS* AND DISMISSING
ACTION WITHOUT PREJUDICE**

Defendant.

Plaintiff Hussain D. Vahidallah filed a complaint claiming that Defendant denied him Medicare benefits in violation of his rights under the Americans with Disabilities Act. Plaintiff did not pay the \$350 filing fee, but instead filed a motion to proceed *in forma pauperis* (“IFP”). On Plaintiff’s fourth attempt, it is apparent that he either can not or will not provide the requisite financial information. Therefore, Plaintiff’s motion is **DENIED**, and the action is **DISMISSED WITHOUT PREJUDICE**.

All parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

1 Plaintiff's initial motion to proceed IFP was denied by order filed May 12, 2008,
2 because his declaration in support of the motion was incomplete. The complaint was
3 dismissed without prejudice and Plaintiff was granted 60 days' leave to pay the requisite
4 filing fee or submit the required information regarding his financial status.

5 On May 29, 2008, Plaintiff filed a document purporting to be his renewed IFP
6 motion captioned "Proceed *in forma pauperis* Pursuant to 28 U.S.C. § 1915(a)." Instead of
7 providing the information which was missing from his initial motion, Plaintiff attached
8 copies of the caption pages of two orders from cases he had previously filed in this district
9 and where IFP status was granted. By order filed June 2, 2008 Plaintiff's renewed motion
10 was denied because the most recent order in Plaintiff's other cases where IFP status was
11 granted was more than a year old, and none of the documents attached to Plaintiff's
12 renewed motion provided the financial information which was missing from Plaintiff's
13 initial motion. Plaintiff was again granted 60 days' leave to pay the filing fee or re-file a
14 motion to proceed IFP.

15 On June 6, 2008, Plaintiff again renewed his IFP motion. Although he used the
16 requisite form, he did not provide the requisite information. Specifically, in answer to
17 question no. 2.b., Plaintiff did not state the date of his last employment, the amount of
18 wages and pay period, or the name and address of the last employer. In answer to question
19 no. 4, Plaintiff did not state the address of the bank or the present balance(s) in his
20 account(s). Plaintiff did not answer question no. 5. In answer to question no. 6, Plaintiff
21 did not state the year or the model of his automobile. In answer to question no. 7, Plaintiff
22 stated that he owned a house, however, he did not describe it or state its value. In answer to
23 question no. 9, Plaintiff did not list his current debts, including amounts owed and to whom
24 they were payable. By order filed June 11, 2008, Plaintiff's renewed motion was denied,
25 but he was again given 60 days' leave to pay the filing fee or re-file his motion in a manner
26 that answers in full all the questions listed on the court-approved IFP form.

27 On June 17, 2008, Plaintiff filed a pleading captioned "Motion for In Forma
28 Pauperis," which provided none of the requisite financial information. Accordingly,

1 Plaintiff's application for IFP status is **DENIED** and the complaint is **DISMISSED**
2 **WITHOUT PREJUDICE.**

3 **IT IS SO ORDERED.**

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5 DATED: June 18, 2008

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7 COPY TO:

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9 HON. JAN M. ADLER
UNITED STATES MAGISTRATE JUDGE

10 ALL PARTIES/COUNSEL

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M. James Lorenz
United States District Court Judge